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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,842	08/31/2000	Eliana Peres	8673-110(8061-518 SJP/rs)	4412
22150	7590	06/22/2005	EXAMINER	
F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			ENG, DAVID Y	
			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/651,842	PERES, ELIANA	
	<b>Examiner</b>	<b>Art Unit</b>	
	DAVID Y. ENG	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 April 2005.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 and 11-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-9 and 11-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 4/4 & 6/6/2005.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

The active claims are 1-9 and 11-17.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-9 and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fijolek (USP 6,223,222).

Details of the rejection have already been set forth in the last Office. The details are incorporated herein by reference thereto.

In the communication filed on April 4, 2005, Applicants contended that Fijolek makes no suggestion that any response is positive. It is noted that the claims did not define what positive and negative responses are. The claims did not recite under what respective circumstances the quality of service management components generate a positive or negative response. The claims did not recite what specific different action the originating multimedia computing device will take if the response from the quality of service management components is negative or positive. Rather, the claims broadly recite that the response from the quality of service management components can be either positive or negative and that the originating multimedia computing device will take alternative action upon receipt of a negative response. The claim did not even make alternative to what the action is take. It is common knowledge that to any request there are two possible responses, namely request is either granted or denied. Obviously, a respond is positive if the request is granted and negative if the request is denied. Although Fijolek did not explicitly have the words "positive respond" and "negative respond", it would have been notoriously obvious to an ordinary skill in the art to

recognize that a response of Fijolek is positive if bandwidth is granted and negative if not. It is further notoriously obvious that different action or alternative to the other action will be taken by requester dependent on which one of the two responds received from the responder.

On page 3 of the response, Applicants further pointed to the specification for the definition of alternative action. It should be noted that claims should be given its broadest interpretation and limitations in the specification should not be read into the claims.

As to claim 11, the claim recites that the originating multimedia communication device would call back if it receives a negative respond. Note that in Fijolek the request is made to obtain bandwidth. Would it be obvious to call back for the requested bandwidth again if the first request is denied? The answer obviously is "yes". Applicant fails to explain why it is not obvious.

As to claim 8, Applicants did not make any specific remarks on claim 8. The claim does not define above the invention claimed in claim 1 and therefore is rejected for the same reasons.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



DAVID Y. ENG  
PRIMARY EXAMINER